Long Island Power Authority

333 Earle Ovington Blvd
Suite 403
Uniondale, New York 11553
(516) 222-7700 — Fax (516) 719-9885
http:www.lipower.org

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Rules Processing Team
Minerals Management Service
U.S. Department of the Interior
381 Elden Street, MS-4024
Herndon, VA 20170-4817

RE: Alternate Energy Related Uses on the Outer Continental Shelf--1010-AD30

Dear Sir/Madame:

Thank you for the opportunity to comment on the Minerals Management Service's ("MMS") efforts to develop a regulatory program to implement Section 388 of the Energy Policy Act of 2005. The following comments respond to MMS's Advanced Notice of Proposed Rulemaking published in the *Federal Register* on December 30, 2005 (70 Fed. Reg. 77345) ("ANOPR").

These comments are submitted on behalf of the Long Island Power Authority ("LIPA"), a public authority of the State of New York.

As you may be aware, LIPA spearheaded the feasibility studies on the potential for offshore wind power in the waters surrounding Long Island to help meet LIPA's growing electrical load. These studies, which were some of the pioneering studies on this topic for the continental United States, led to LIPA's solicitation for the development of a 100-140MW offshore wind park in which LIPA would purchase all of the energy, capacity, ancillary services and green attributes from through a long term power purchase agreement.

The result of that solicitation is a proposed 140 megawatt wind energy facility to be located on the Outer Continental Shelf south of Long Island, New York. That project is being developed by FPL Energy in cooperation with LIPA. (LIPA would to provide the interconnecting transmission line between the offshore substation and LIPA's on-island electrical grid.) LIPA and FPL Energy submitted a Section 10 Joint Application for Permit on April 26, 2005 to the U.S. Army Corps of Engineers, New York District. The Application was deemed complete by the agency on May 24, 2005. Numerous project meetings have been conducted with agency, political and other public interest stakeholders to address project issues related to the ongoing permitting process. Written public comments and draft application responses have

also been completed. FPL Energy and LIPA have initiated meetings with MMS concerning the transition of lead agency authority under the National Environmental Policy Act.

Under the terms of Sections 388 (a) and (d) of the Energy Policy Act of 2005, the Long Island project is subject to MMS review under agency procedures currently in place or otherwise established separately from the regulations contemplated by the ANOPR. LIPA believes that the experience gained by MMS in moving forward with the evaluation of the Long Island project will provide valuable insights relevant to the establishment of the agency's comprehensive, nationwide. We suggest that the opportunity for mid-course corrections to the process be built into such a nationwide program; in this way, lessons learned in the Long Island process can be most effectively utilized. To that point, we wish to point out that, as provided by Section 388, and as endorsed by the OCS Policy Committee at its November 2005 meeting, MMS's review of the Long Island project was specifically identified to proceed forward now, and not be delayed by or subject to the subsequent promulgation of the regulations contemplated by the ANOPR.

While LIPA is generally aware of, and in agreement with, the point-by-point comments which are being submitted by both FPL Energy and to a lesser extent the American Wind Energy Association, LIPA's specific comments on this matter are less specific in nature and reflect our position as a not-for-profit public utility whose ratepayers will in the end both enjoy the benefits that these clean, renewable energy projects would provide but who will also be subject to both the physical presence of the facility and the cost of energy being produced by the facilities.

With respect to the Access to OCS Lands and Resources issues which MMS sought comment upon, LIPA offers the following comments. MMS's development of rules need to balance the desire for competition with the responsibility to ensure that proposed projects are actually developed in a timely manner and in accordance with the original proposal. Care needs to be given to ensure that an appropriate threshold is established with regard to a proposed developer's experience and financial capability so that time is not wasted on frivolous proposals and, as importantly, that permits do not take on a commodities feature which would result in prime project locations being "tied up" by speculators. Additionally, some form of density management should be established for at least the outset of this new period. Public support and concern will likely be directly related to the potential number and proximity of projects that are proposed for individual locales.

On the topic area of Environmental Information, Management and Compliance, LIPA offers the following comment. LIPA believes that all proposed projects need to be fully vetted from an environmental standpoint, and at least at this initial stage require an Environmental Impact Statement. On the other hand, recognition must be given to the fact that the body of existing knowledge on offshore environmental baselines pales in comparison to that of existing onshore knowledge. As importantly, the cost and logistics for undertaking offshore environmental studies is generally substantially higher than that for comparative studies onshore. Thus, the scope of the impact assessments should consider some balance on what is of primary importance and realistically achievable as well as what is is already existing for comparative onshore studies.

With respect to the issues covered under the Program Area: Operational Activities, LIPA offers the following thoughts. While no offshore facilities currently exist in the United States, in many cases the technologies have existed and been deployed in commercial settings in

other areas around the world. The environmental review experiences, reports and results of those deployments should be utilized rather than ignored in developing rules, regulations and protocols for projects in the United States. To that extent, the determination of "pilot" projects should be made based upon the existing body of knowledge rather than solely upon the introduction of the technology to the United States. On the other hand, true "pilot" projects which represent the possibility for advancing the state-of-the-art and which are limited in scale and duration should be accorded some relief in order to allow for a more rapid introduction of the technology into the mainstream if the pilot proves successful. LIPA also believes that the management of the end of life of the facility is of supreme importance and should be handled in a manner which precludes the abandonment of non-operating facilities by the developer. It would seem that lessons learned in the oil and gas arena might be appropriately applied here.

In the area of Payments and Revenues, LIPA offers the following comments. There is a vast difference between the existing oil and gas industry models and the likely renewable resource projects that needs to be recognized. One is a finite natural resource which belongs to the public, is a speculative commodity, is a mature industry and for which the range of output value per installation can swing wildly from near zero to many millions of dollars per year. On the other hand, renewable resource projects are projects which in many cases are being subsidized by the federal government to promote a perceived public good, are non-extractive, represent fledgling industries, are subject to very inelastic price bounds and most importantly do not produce a very large output per dollar value per structure. Additionally, under certain scenarios such as the proposed Long Island Offshore project, any incremental fees or royalties are a direct pass-thru to the off-taker of the energy, who in cases such as a not-for-profit utility has no other means of providing for such increase other than passing it on to the end consumer.

Lastly, on coordination and consultation, LIPA offers the following thoughts. LIPA believes that an integrated federal/state coordinated process is necessary for projects to be fully permitted in a timely manner. It is likely that in the large majority of projects that will be proposed, the project will be physically connected in some manner to an asset within individual states boundaries, and which will require state permits and state environmental review. A coordinated effort which provides for minimization of conflicts in schedules, mitigation methods, protocols and approval requirements should help reduce the premium which will be priced into projects for such dual permitting risk.

LIPA appreciates the opportunity for to submit these comments. Should you have any questions, please contact me at 516-650-1477

Sincerely

Daniel W. Zaweski

Director of Energy Efficiency
and Distributed Generation
Programs